

I. IT&E MEETS ALL THE REQUIREMENTS FOR DESIGNATION AS AN ELIGIBLE TELECOMMUNICATIONS CARRIER TO SERVE GUAM

Under Section 241(e)(6) of the Act, the Commission, consistent with the public interest, convenience and necessity, may, with respect to an area served by a rural telephone company, and shall, in all other cases, designate more than one common carrier as an ETC for a designated service area, so long as the requesting carrier meets the requirements of Section 214(e)(1). The Commission has previously identified the showing that a carrier must make to meet the requirements of Section 214(e)(6).² As shown below, IT&E meets each of these requirements.

A. IT&E Will Provide Service Over its Own Facilities

IT&E has sufficient facilities and capacity to provide supported services throughout Guam. IT&E will offer supported services upon request throughout Guam over its own facilities. Additionally, it is possible that IT&E may provide supported services using a combination of its own facilities and resale of another carrier's facilities. IT&E will offer supported services upon request.

B. IT&E Offers All Required Services and Functionalities

IT&E offers, or will offer upon designation as an ETC, to 100 percent of the population of Guam all of the services and functionalities required by Section 54.101(a) of the Commission's rules.³

² *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, Public Notice, FCC 97-419, released December 29, 1997.

³ 47 C.F.R. § 54.101(a).

Voice grade access to the public switched network. Voice grade access means the ability to make and receive traditional voice phone calls, within a bandwidth of approximately 3500 Hertz.⁴ IT&E satisfies this requirement by having a fully interconnected voice-quality wireless network that allows customers to place and receive voice calls.

Local Usage. As part of voice grade access to the public network, an ETC must provide local calling. IT&E, through its wireless network, provides the ability to send and receive local phone calls both over IT&E's network and through interconnection with the incumbent local exchange carrier serving Guam. Local usage is included in all of IT&E's calling plans.

Dual tone multi-frequency ("DTMF") signaling or its functional equivalent. DTMF signaling allows carriers to provide expeditious call setup, and enables modem usage.⁵ IT&E uses out-of-band digital signaling and in-band multifrequency signaling that is functionally equivalent to DTMF.

Single-party service or its functional equivalent. IT&E provides customers with single-party access for the duration of every phone call. IT&E does not provide "multiparty" or "party line" services.

Access to 911 and E911 emergency service. The Commission has declared that access to emergency services is essential.⁶ IT&E provides access to the 911 system for its customers.

Access to operator services. IT&E offers all customers access to operator services, in accordance with the Commission's requirements.

⁴ See Federal-State Joint Board on Universal Service, CC Docket 96-45, *First Report and Order*, 12 FCC Rcd 8776, 8810-11 ("*USF Order*").

⁵ *USF Order*, at 8814.

⁶ *Id.* at 8815.

Access to Interexchange Service (“IXC”). IT&E customers can use the IT&E network for IXC access to place long distance phone calls. Access is through interconnection agreements with several IXC carriers, as well as the ability for customers to reach other carriers through the use of dial-around access.

Access to directory assistance. All IT&E customers receive access to 411 directory assistance service through the IT&E network; and

Toll limitation for qualified low-income customers. As required by the Commission’s rules, IT&E, upon designation as an ETC, will make available to qualifying low-income customers a free solution that assists these low-income persons to control telephone costs.⁷ IT&E is fully capable of providing such a toll limiting service to its customers. IT&E does not presently offer a toll limitation feature because it is not an ETC. Upon designation as an ETC, IT&E will participate in, and offer, Lifeline and LinkUp programs as required under the Commission’s rules. In accordance with Section 54.401(b) of the Commission’s rules,⁸ IT&E will not disconnect Lifeline service for non-payment of toll charges.

C. The Public Utilities Commission of Guam Does Not Regulate CMRS Service

A carrier seeking designation as an ETC typically would file for designation with the applicable state regulatory commission. However, the Public Utilities Commission of Guam (“Guam PUC”) regulates only the incumbent wireline company, Guam Telephone Authority (“GTA”). A letter to this effect was provided by the Guam PUC to counsel for IT&E on December 4, 2001. A copy of this letter is attached to this Petition as Attachment 2. This letter meets the Commission’s specific requirements for such letters, in that it specifically identifies that IT&E is not

⁷ *Id* at 8821-22.

⁸ 47 C.F.R. § 54.401(b).

regulated by the Guam PUC, that the Guam PUC lacks jurisdiction over IT&E and states that IT&E must seek ETC status from the FCC.⁹ Because the Guam PUC does not regulate carriers other than GTA, IT&E requests that the FCC designate IT&E as a common carrier providing telephone exchange service and exchange access not subject to the jurisdiction of a state commission.¹⁰

D. IT&E Will Advertise the Availability of Supported Services

IT&E will advertise the availability of the above-described services and the charges therefor using media of general distribution, in accordance with the requirements of Section 54.201(d)(2) of the Commission's rules.¹¹ IT&E currently advertises the availability of its services, and will do so for each supported service on a regular basis, in newspapers, and magazines, or on radio and television, that constitute media of general distribution in Guam.

II. DESIGNATION OF IT&E AS AN ETC FOR GUAM WOULD SERVE THE PUBLIC INTEREST

The Commission has determined that "[d]esignation of competitive ETCs promotes competition and benefits consumers in rural and high-cost areas by increasing customer choice, innovative services, and new technologies."¹² This determination is particularly applicable to Guam, which is not presently served by any wireline competitive local exchange carriers. At the present

⁹ *Federal - State Joint Board on Universal Service*, Twelfth Report and Order, Memorandum Report and Order and Further Notice of Proposed Rulemaking, cc Docket No. 96-45, 15 FCC. Rcd 12208, 12264, Para. 113. (2000).

¹⁰ *See*, 47 U.S.C. 214 (e)(6).

¹¹ 47 C.F.R. § 54.201(d)(2).

¹² *Western Wireless Corporation Petition for Designation as an Eligible Telecommunications Carrier in the State of Wyoming*, Memorandum Opinion and Order, CC Docket No. 96-45, 16 FCC Rcd 48, 55 (2000).

time, wireless providers are the only available alternative to the incumbent local exchange carrier for provision of competitive local exchange service to consumers and businesses in Guam.¹³

More particularly, consumers will benefit because IT&E's service provides a superior alternative in many respects to wireline service, especially in remote areas of Guam. Designation of IT&E as an ETC will also provide an incentive to the incumbent to improve its existing network to remain competitive, resulting in improved service to the consumer.¹⁴ Designation of IT&E as an ETC for Guam will also benefit consumers because support to services provided by IT&E will help assure that quality services are available at "just, reasonable, and affordable rates" as envisioned in the Act.¹⁵ Designation of IT&E as an ETC will also serve the public interest because IT&E will provide all of the supported services required by the Commission, will participate in the LifeLine and Link-Up programs as required by the Commission's rules, and will otherwise comply with all FCC rules governing universal service programs, which are designed to assure that the public interest standards of the Act are achieved. Accordingly, designation of IT&E as an ETC would serve the public interest.

¹³ Before designating an additional ETC for an area served by a rural telephone company, the Commission must find that the designation is in the public interest. 47 U.S.C. Section 214(e)(6). Guam Telephone Authority, the incumbent local exchange carrier serving Guam, is a rural telephone company under the Communications Act. *Guam Public Utilities Commission Petition for Declaratory Ruling Concerning Sections 3(37) and 251(h) of the Communications Act*, Declaratory Ruling and Notice of Proposed Rulemaking, 12 FCC Rcd 6925 (1997).

¹⁴ *Id.*

¹⁵ 47 U.S.C. Section 254(b)(1).

III. IT&E REQUESTS DESIGNATION THROUGHOUT THE TERRITORY OF GUAM

IT&E is not a rural telephone company as defined in Section 153(37) of the Communications Act.¹⁶ IT&E requests designation as an ETC throughout the territory of Guam, Guam RSA, CMA 732. In Attachment 3 hereto, IT&E provides a map of IT&E's service area, under which IT&E offers service to 100 percent of the population of Guam.

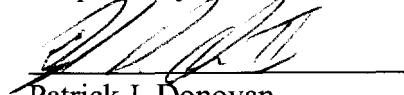
IV. ANTI-DRUG ABUSE CERTIFICATION

No party to this petition is subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.

V. CONCLUSION

Because the requirements for eligibility for designation as an eligible telecommunications carrier have been met, IT&E requests that the Commission promptly grant this Petition.

Respectfully submitted,



Patrick J. Donovan

Douglas D. Orvis II

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Counsel for IT&E Overseas, Inc.

December 5, 2001

¹⁶ 47 U.S.C. Section 153(37).

ATTACHMENTS

Attachment 1

Declaration of John M. Borlas.

Attachment 2

Letter from Public Utilities Commission of Guam to Counsel for IT&E.


Attachment 3

Map of IT&E Service Area.

CERTIFICATE OF SERVICE

I, Cheryl Krehling, hereby certify that I have, on this 5th day of December, 2001, sent, via hand delivery, a copy of the foregoing PETITION filed today to the following:

Richard Smith
Accounting Policy Division
Federal Communications Division
445 12th Street, SW
Room 5-A660
Washington, D.C. 20554


Cheryl Krehling

Attachment 1

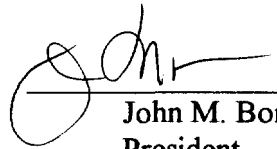
Declaration of John M. Borlas.

DECLARATION OF JOHN M. BORLAS, P.E.

I, John M. Borlas, P.E., do hereby declare under penalty of perjury as follows:

1. I am President of IT&E Overseas, Inc.
2. This Declaration is submitted in support of IT&E's "Petition for Designation As An Eligible Telecommunications Carrier in the Territory of Guam," to which this Declaration is attached.
3. I declare and certify as follows, and as described in the aforementioned petition, that: IT&E is not subject to the jurisdiction of a state commission; IT&E offers, or will offer, all of the services designated by the Commission for support pursuant to Section 254(c)(3) of the Act; IT&E offers, or will offer, the supported services either using its own facilities or a combination of its own facilities and resale of another carrier's services; and that IT&E advertises, or will advertise, the availability of supported services and the charges therefore using media of general distribution as described in the aforementioned Petition.
4. I further declare that I have reviewed the aforementioned Petition and that the facts stated therein, of which I have personal knowledge, are true and correct to the best of my knowledge and belief.
5. I further declare that to the best of my knowledge, IT&E, including all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or nonvoting) of IT&E as specified in Section 1.2002(b) of the Commission's rules are not subject to a denial of federal benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Section 862.

I declare under penalty of perjury that the foregoing is true and correct to the best of my information and belief.



John M. Borlas, P.E.
President
IT&E Overseas, Inc.

November 8, 2001

Attachment 2

Letter from Public Utilities Commission of Guam to Counsel for IT&E.

**PUBLIC UTILITIES COMMISSION
OF GUAM**

Terrence M. Brooks, Chairman

Filomena M. Cantoria
Edward C. Crisostomo
Joseph M. McDonald
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Harry M. Boertzel, Esq.
Administrative Law Judge

Monessa C. Leon Guerrero
Executive Director

December 4, 2001

Fax: (202) 424-7647

Mr. Patrick J. Donovan

Swidler Berlin Shereff Friedman, LLP

The Washington Harbour
3000 K Street, NW, Suite 300
Washington, DC 20007-5116

Re: IT&E Overseas, Inc.'s Petition for Designation as an Eligible
Telecommunications Carrier Pursuant to 47 U.S.C. § 214(e)(6)

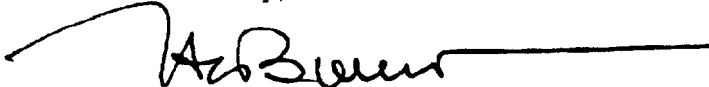
Dear Mr. Donovan:

We understand that IT&E Overseas, Inc. ("IT&E") will be filing a petition with the Federal Communication Commission ("FCC") seeking designation as an eligible telecommunications carrier pursuant to 47 U.S.C. § 214(e)(6). In connection with such anticipated filing, you have requested, by letter dated November 16, 2001, a formal letter from the Public Utilities Commission of Guam ("Commission") regarding the Commission's jurisdiction to designate IT&E as an eligible telecommunications carrier under the existing laws of the Territory of Guam.

In accordance with 47 U.S.C. § 214(e)(6) and the FCC's *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, CC Docket No. 96-45, FCC 97-419 (released December 29, 1997), the Commission hereby confirms that, under the existing laws of the Territory of Guam, (a) IT&E is not currently subject to the jurisdiction of the Commission, (b) the Commission lacks jurisdiction to designate IT&E as an eligible telecommunications carrier, and (c) IT&E must seek designation as an eligible telecommunications carrier from the FCC. The foregoing confirmation shall not be deemed a waiver of the Commission's jurisdiction or authority under any future laws of the Territory of Guam or the United States of America or in any future proceeding where an independent basis for jurisdiction exists.

Please let me know if you have any further questions.

Cordially,



Harry M. Boertzel
Administrative Law Judge

Attachment 3

Maps of IT&E's Service Area

GUAM

